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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,765	01/19/2005	Masahiro Ishikawa	2005-0023A	2676

513 7590 04/16/2007  
WENDEROTH, LIND & PONACK, L.L.P.  
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SUITE 800  
WASHINGTON, DC 20006-1021

EXAMINER
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TSAY, MARSHA M

ART UNIT	PAPER NUMBER
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1656

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/16/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/521,765

Applicant(s)

ISHIKAWA ET AL.

Examiner

Marsha M. Tsay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-6,8 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2 and 10 is/are allowed.
- 6) ☒ Claim(s) 4-6 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 11/27/06.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

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This Office action is in response to Applicants' remarks received January 19, 2007.

Claims 3, 7, 9 are canceled. Claims 1-2, 4-6, 8, 10 are pending and currently under examination.

Applicants' arguments have been fully considered and are deemed to be persuasive to overcome some of the rejections previously applied. Rejections and/or objections not reiterated from previous office actions are hereby withdrawn.

Priority: The priority date is July 19, 2002.

### **Objections and Rejections**

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4-6, 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Bringe (US 6566134). Bringe teaches a method for preparing a soy protein composition comprising a  $\beta$ -conglycinin content greater than 40% (col. 38 lines 1-35). Bringe teaches Cntrl SPI-acid-hb, 90 C, Com'l SPI A (S760), and Com'l SPI E (P974) are  $\beta$ -conglycinin protein isolates having a solubility of less than 70% (col. 26 table 4; claims 4, 6). In Example 11, Bringe teaches making cheese using the  $\beta$ -conglycinin proteins noted above (col. 34-35; claims 5, 8). Despite the process used to obtain the  $\beta$ -conglycinin protein of claims 4, 5, 6, 8, the claims are still drawn to

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a  $\beta$ -conglycinin protein having a solubility of less than 70% and a  $\beta$ -conglycinin of 40% or more. Bringe teaches a  $\beta$ -conglycinin protein isolate comprising a  $\beta$ -conglycinin content greater than 40% and a solubility of less than 70%. Since the  $\beta$ -conglycinin protein of Bringe has the same properties as the instant product, it is believed to be the same as the instant  $\beta$ -conglycinin protein regardless of the method used to obtain the product.

Applicants have currently amended claim 1 to include the limitation of heating the solution or paste of the  $\beta$ -conglycinin protein under acidic conditions of pH 3.5 to 6.0. However, as noted above, the instant claims 4-6, 8, are drawn to a product of  $\beta$ -conglycinin protein, despite the method used to obtain the  $\beta$ -conglycinin protein. Since the  $\beta$ -conglycinin protein of Bringe meets the properties of the instant  $\beta$ -conglycinin as recited in the claims, the Bringe reference anticipates the instant product.

Claims 1-2, 10 are allowable.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marsha M. Tsay whose telephone number is 571-272-2938. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Kathleen Kerr Bragdon can be reached on 571-272-0931. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

April 11, 2007

*M. Monshipouri*  
MARYAM MONSHIPOURI, PH.D.  
PRIMARY EXAMINER